**In the High Court for the States of Punjab and Haryana, at Chandigarh.**

R.S.A.No. 56 of 2006
Decided on Oct 29,2007.

Tej Kumar and another -- Appellant

vs.

Jagdish Lal -- Respondent.

Present: Mr. Sushil Bhardwaj,Advocate,for the appellants.

Mr. Vikram Singh,Advocate, for the respondent.

**Permod Kohli, J:(Oral)**

This is appellants/defendants' Regular Second Appeal against the concurrent findings of fact recorded by the Courts below.

Plaintiff is the father and the defendants/appellants are his sons. Father filed a suit for mandatory injunction for seeking a direction against the respondents to leave the premises occupied by them as his licensees from House Nos. 153-154, situated near Shiv Mandir, Vasant Vihar, Karnar. It is pleaded that the plaintiff purchased two plots one from Ramesh son of Des Raj vide sale deed dated July 26,1982 and other from Randhir Singh son of Madan Gopal vide sale deed dated November 20,1989 and, thereafter, constructed a house in the year 1986 and 1994 and also three shops over the same. The shops are in possession of the defendants, who are running Atta Chakki and Karyana business.

It was further pleaded in the plaint that the plaintiff permitted the respondents to live with him as his licensees and also permitted them to run business in the shops to earn their livelihood, but the defendants showed no respect to the plaintiff and they threatened him. They are not even paying electricity and telephone bills even though utilizing the same.

The appellants/defendants pleaded that they have contributed out of the income of the business in the construction of the houses by the plaintiff, and they claim to be the owners in possession of the property being Joint Hindu Family Property.

The trial Court framed following seven issues:-

1.Whether the plaintiff is owner of house in dispute ?OPP

2. Whether defendants are occupying the premises in dispute as licencee? If so, whether defendants are liable to hand over the vacant possession of the premises in dispute to the plaintiff or in alternative decree for possession is liable to be passed in favour of the plaintiff ? OPP

3. Whether the suit is without cause of action ? OPD

4. Whether plaintiff has no locus standi to file the suit ? OPD

5. Whether suit is not maintainable ? OPD

5-A.Whether suit has not been properly valued for the purpose of court fee and jurisdiction ? OPD

6 Relief:

While deciding issue Nos. 1 and 2, the trial Court held that the plaintiff is the owner and the property is his self acquired property. It has

also returned a finding that the defendants are licensees of the plaintiff and consequently, decreed the suit vide its judgment and decree dated September 26,2002, directing the defendants to hand over vacant possession of the property in dispute to the plaintiff within 30 days.

Aggrieved of the aforesaid judgment and decree, the present appellants (defendants) preferred an appeal in the Court of learned Addl. District Judge, Karnal. The learned First Appellate Court after examining the evidence on record concurred with the findings of fact recorded by the trial court and dismissed the appeal.

Learned counsel appearing for the appellants has stated that the suit filed by the plaintiff-father is not maintainable as it is only a suit for mandatory injunction. However, nothing has been shown why the suit is not maintainable. Licensor has a right to seek mandatory injunction for the removal of licencee. No substantial question of law arises in this appeal. No merit.

This Regular Second Appeal is hereby dismissed in limine.

**October 29,2007** **(Permod Kohli)**
**RR** **Judge**